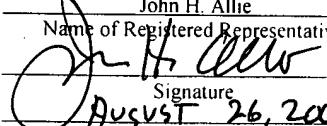




IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:) Before the Examiner
Todd C. Slater et al.)
Serial No. 10/797,522) Not Yet Assigned
Filed: March 10, 2004)
METHODS AND SYSTEMS OF) Group Art Unit 2184
DIAGNOSING FUEL INJECTION)
SYSTEM ERROR) Our Ref.: 8222-53

| | |
|--|-----------|
| I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA, 22313-1450 on | |
| <u>AUGUST 26, 2004</u> | |
| (Date of Deposit) | |
| John H. Allie | |
| Name of Registered Representative | |
|  | Signature |
| <u>AUGUST 26, 2004</u> | |
| Date of Signature | |

PETITION UNDER 37 C.F.R. §1.47(a)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Please enter the following petition under 37 C.F.R. §1.47(a) for the above-referenced application in which an inventor, John E. Rogers, has not executed the Declaration for Patent Application after being sent a copy of the application and a request to execute the Declaration. A Credit Card Payment Form including the requisite fee of \$130 as set forth in 37 C.F.R. §1.17(h) is enclosed herewith along with a Declaration and Power of Attorney for Patent Application executed by two of the inventors, Todd Slater and Michael D. Zieles, on behalf of themselves and the non-signing Mr. John E. Rogers.

Additionally please charge any additional fees necessary to Deposit Account 23-3030 but not to include the payment of any issue fees.

1. The subject matter in the 10/797,522 patent application (hereinafter the '522 application) was invented by Todd Slater, John E. Rogers and Michael D. Zieles while they all were employees of Cummins Inc. (hereinafter CUMMINS) of Columbus, Indiana. Each of the inventors has an obligation to assign their interest to CUMMINS and/or its predecessors and/or successors in interest. One of the inventors, Mr. John Rogers, is no longer in the employment of CUMMINS and has not executed the '522 application. On June 8, 2004, Applicants' Representative sent a copy of the application and a request to review and execute a Declaration for Patent Application by United States Postal Service Express Mail to an address believed to be current for Mr. John E. Rogers. The document was returned undelivered by the United States Postal Service indicating that they were unable to forward the documents to Mr. John Rogers as a forwarding order had expired (Exhibit A). Upon further inquiry, the Applicants' Representative was provided with an address for Mr. John Rogers in Westport, Indiana. In a letter sent by Federal Express on July 14, 2004, there was enclosed a copy of the patent application and a request that Mr. Rogers review and execute the Declaration for Patent Application (Exhibit B). A copy of the FedEx Tracking Shipments Detailed Results is set forth in Exhibit C regarding this letter. As set forth in Exhibit C, the letter was delivered on July 16, 2004, to Mr. Rogers' address and the signing party signature is indicated on page 2 confirming the delivery of the item to Mr. Rogers' address.

2. The Applicants' Representative believes that Mr. John E. Rogers has a current address of 2605 West County Road 1000 North, Westport, Indiana, 47283.

3. The undersigned Declarant is warned that willful false statements and the like are punishable by fine or imprisonment or both, 18 U.S.C. §101, and may jeopardize

the validity of the application or any patent issuing therefrom. Further the undersigned declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Respectfully submitted,



John H. Allie

Reg No. 39,088

Woodard, Emhardt, Moriarty,

McNett & Henry LLP

Bank One Center Tower

111 Monument Circle, Suite 3700

Indianapolis, Indiana 46204-5137

(317) 634-3456



EXHIBIT B

WOODARD, EMHARDT, MORIARTY, McNETT & HENRY LLP

EMHARDT
JACK V. MORIARTY
JOHN C. McNETT
THOMAS O. HENRY
JAMES M. DURLACHER
CHARLES R. REEVES
VINCENT O. WAGNER
STEVE ZLATOS
SPIRO BEREVSKOS
CLIFFORD W. BROWNING
R. RANDALL FRISK
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LISA A. HIDAY
JOHN V. DANILUCK
CHRISTOPHER A. BROWN
ARTHUR J. USHER IV

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ELIZABETH A. SHUSTER

JOSEPH A. NAUGHTON
SENIOR COUNSEL
SCOTT J. STEVENS
EDWARD E. SOWERS
MICHAEL C. BARTOL
OF COUNSEL
CHARLES P. JACOBS
(1837-1892)
VIRGIL H. LOCKWOOD
(1860-1932)
RALPH G. LOCKWOOD
(1890-1957)
HAROLD R. WOODARD
(1911-2003)

July 14, 2004
VIA FEDERAL EXPRESS

Ref: 8222-53
Dept:

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Wgt: 0.7 LBS SPECIAL \$0.68
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TOTAL \$9.76

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TRACK: 6604 8333 2404

Mr. John E. Rogers
2605 West County Road 1000 North
Westport, IN 47283

Re: U. S. Patent Application No. 10/797,522
Filed: March 10, 2004

Inventors: Todd C. Slater, John E. Rogers, Michael D. Zieles
METHODS AND SYSTEMS OF DIAGNOSING FUEL INJECTION
SYSTEM ERROR

Our Ref.: 8222-53

Your Ref.: 8-02-12711

Dear John:

Enclosed is a copy of the above-identified patent application for review. Please note that this application was authorized by Cummins Inc., and we have worked with Todd Slater and Mike Zieles in preparing the application that was filed on March 10, 2004. We ask that you please review the draft carefully to ensure that it accurately and completely discloses and claims the subject matter of the invention.

Also enclosed are signature papers that we ask you to execute and return to us in order to complete the filing of this case. Please be sure to read these papers carefully. The name must be signed exactly as typed, unless corrections are required, in which case you should point out any errors to us immediately. Please also be sure that the dates are entered using the full name of the month instead of a number designation. The U. S. Patent and Trademark Office is very strict in its requirement that names be signed as printed, and that months be referred to by name when dating the papers.

In executing this application, certain obligations are assumed and important representations are being made. A patent application must be filed in the United States within one year after the first public disclosure or use, or offering for sale of the invention. Signing the filing papers for this application constitutes a representation that this requirement is being met. In addition, every inventor who files a patent application has a duty to disclose all prior patents,

Mr. John E. Rogers

July 14, 2004

Page 2

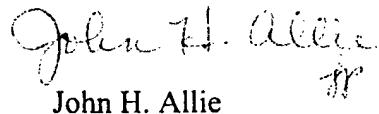
publications and other information known to be material to the patentability of the claimed invention. This obligation to disclose prior art is a continuing duty throughout the prosecution of the patent application. It is also necessary to disclose in the patent application details of the invention that would enable a person of ordinary skill in the art to make and use the claimed invention without undue experimentation, and to disclose the best version of the invention known to the inventor at the time the patent application is filed. Failure to meet any of the above requirements may have the effect of invalidating any patent that might be obtained on the invention.

Finally, we are enclosing an Assignment document which transfers the entire right, title and interest in this case from the inventors to Cummins Inc. Preferably, this form should be signed in the presence of a notary and returned to us for recording with the Patent Office. If that is unduly burdensome, please sign and return without the notarization.

We look forward to receiving the executed Declaration/Power of Attorney and Assignment documents in the near future. We enclose a return envelope for your convenience. Please do not hesitate to contact us if you have any questions.

Best regards.

Sincerely,



John H. Allie

008222-000053.JHA/jmp.291761

Enclosures

cc: Terry Neff



DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

Docket No. 8222-53

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **METHODS AND SYSTEMS OF DIAGNOSING FUEL INJECTION SYSTEM ERROR**, the specification of which

(check one) [] is attached hereto.

was filed on March 10, 2004 as Application Serial No. 10/797,522
and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code §119 or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT international application having a filing date before that of the application on which priority is claimed:

| Prior Foreign Application(s) | Priority Claimed |
|------------------------------|------------------|
|------------------------------|------------------|

| | | | | |
|----------|-----------|------------------------|-----|----|
| (Number) | (Country) | (Day/Month/Year Filed) | Yes | No |
| (Number) | (Country) | (Day/Month/Year Filed) | Yes | No |

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(

(Application Serial No.) (Filing Date) (Status - patent/pending/abandoned)

(Application Serial No.) (Filing Date) (Status - patent/pending/abandoned)

I hereby claim the benefit under Title 35, United States Code, §119(e) of any provisional application listed below:

60/453,992 March 12, 2003
(Application Serial No.) (Day/Month/Year Filed)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: C. David Emhardt, No. 18, 483; Joseph A. Naughton, Jr., No. 19, 814; John V. Moriarty, No. 26,207; John C. McNett, No. 25,533; Thomas Q. Henry, No. 28,309; James M. Durlacher, No. 28,840; Charles R. Reeves, No. 28,750; Vincent O. Wagner, No. 29,596; Steve Zlatos, No. 30,123; Spiro Bereveskos, No. 30,821; Clifford W. Browning, No. 32,201; R. Randall Frisk, No. 32,221; Daniel J. Lueders, No. 32,581; Kenneth A. Gandy, No. 33,386; Timothy N. Thomas, No. 35,714; Kurt N. Jones, 37,996; John H. Allie, No. 39,088; Holiday W. Banta, No. 40,311; Troy J. Cole, No. 35,102; L. Scott Paynter, No. 39,797; Charles J. Meyer, No. 41,996; Matthew R. Schantz, No. 40,800; Gregory B. Coy, No. 40,967; Lisa A. Hiday, No. 40,036; John V. Daniluck, No. 40,581; Christopher A. Brown, No. 41,642; Arthur J. Usher, IV, No. 41,359; Douglas A. Collier, No. 43,556; Brad A. Schepers, 45,431; Scott J. Stevens, No. 29,446; James B. Myers, Jr., No. 42,021; John M. Bradshaw, No. P-46,573; Chuck Schmal, No. 45,082; Quentin G. Cantrell, No. 47,469; Edward E. Sowers, No. 36,015; John L. Roberts, No. 50,453; John J. Emanuele, No. 51,653; Denise M. Gosnell, No. 51,748; Jason A. Houdek, No. 54,620; Michael S. Wherry, No. 53,764; Elizabeth A. Shuster, No. 52,672; Michael C. Bartol, No. 44,025; and Gary M. Gron, No. 24,293.

Address all telephone calls to: John H. Allie at (317) 634-3456

Address all correspondence to: John H. Allie, Esquire
Woodard, Emhardt, Moriarty & McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: **Slater, Todd**

Inventor's Signature: _____ Date of Signature: _____
Residence: 1045 North Street, Columbus, Indiana, 47203
Citizenship: United States
Post Office Address: 1045 North Street
Columbus, IN 47203

Full name of second inventor: **Rogers, John E.**

Inventor's Signature: _____ Date of Signature: _____
Residence: 2605 West County Road 1000 North, Westport, Indiana, 47283
Citizenship: United States
Post Office Address: 2705 West County Road 1000 North
Westport, IN 47283

Full name of first inventor: **Zieles, Michael D.**

Inventor's Signature: _____ Date of Signature: _____
Residence: 1380 Honey Locust Court, Columbus, Indiana, 47201
Citizenship: United States
Post Office Address: 1380 Honey Locust Court
Columbus, IN 47201

ASSIGNMENT

WHEREAS, Todd Slater of 1045 North Street, Columbus, Indiana, 47203; and John E. Rogers of 2605 West County Road 1000 North, Westport, Indiana, 47283; and Michael D. Zieles of 1380 Honey Locust Court, Columbus, Indiana, 47201, hereinafter referred to as Assignors, have made one or more new and useful inventions in **METHODS AND SYSTEMS OF DIAGNOSING FUEL INJECTION SYSTEM ERROR** for which Assignors have made or will make application for Letters Patent of the United States (hereinafter the "Application"); and

WHEREAS, Cummins Inc., hereinafter referred to as Assignee, a corporation of the State of Indiana, having a principal place of business at 500 Jackson Street, Columbus, Indiana, 47202, desires to acquire all of the entire right, title, and interest in, to and under the one or more inventions disclosed, described and claimed or intended so to be in the Application, and in, to and under the Application, and in, to and under any and all Letters Patent, United States and foreign, which may be obtained therefor and thereon;

NOW, THEREFORE, to all whom it may concern, be it known that for and in consideration of the sum of One Dollar (\$1.00) and other good, valuable and sufficient considerations to Assignors in hand paid, the receipt of which is hereby acknowledged, Assignors have sold, assigned and transferred, and by these presents do sell, assign and transfer unto Assignee, all of the entire right, title, and interest in, to and under the one or more inventions disclosed, described and claimed or intended so to be in the Application entitled **METHODS AND SYSTEMS OF DIAGNOSING FUEL INJECTION SYSTEM ERROR**, and any and all other applications thereon and arising therefrom, including any and all applications claiming the benefit thereof, and any and all divisions, continuations, and

continuation-in-parts thereof, and any and all patents to be issued and obtained therefor and thereon, United States and foreign, including all reissues and extensions thereof.

Assignors acknowledge that the Application was executed concurrently herewith unless a different execution date is indicated in item (a) below. Assignors hereby authorize the Assignee, its counsel, or its agents to fill-in some or all of the following list of information items (a) through (c) at the discretion of the Assignee, its counsel, or its agents:

(a) Execution Date of the Application: _____.

(b) Patent Office Number for the Application: _____.

(c) Filing date of the Application: _____.

Assignors hereby authorize and request the Honorable Assistant Secretary and Commissioner of Patents and Trademarks to issue said Letters Patent to Assignee, its assigns and legal representatives.

Assignors agree to assign and execute any and all other papers necessary or desirable for the procurement of Letters Patent on said invention in this and all foreign countries for the use of Assignee.

WITNESS First Assignor's hand this _____ day of _____, 2004.

Todd Slater

STATE OF INDIANA)
) : ss
COUNTY OF _____)

Before me, a Notary Public, in and for said County and State, personally appeared Todd Slater, who, being first duly sworn upon his oath, acknowledged the execution of the foregoing "Assignment" as his voluntary act and deed.

WITNESS my hand and Notarial Seal this _____ day of _____, 2004.

Notary Public

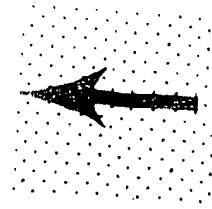
Printed: _____

Resident of _____ County

My Commission Expires:

WITNESS Second Assignor's hand this ____ day of _____, 2004.

John E. Rogers



STATE OF INDIANA)
) : ss
COUNTY OF _____)

Before me, a Notary Public, in and for said County and State, personally appeared John E. Rogers, who, being first duly sworn upon his oath, acknowledged the execution of the foregoing "Assignment" as his voluntary act and deed.

WITNESS my hand and Notarial Seal this _____ day of _____, 2004.

Notary Public

Printed: _____

Resident of _____ County

My Commission Expires:

WITNESS Third Assignor's hand this _____ day of _____, 2004.

Michael D. Zieles

STATE OF INDIANA)
) : ss
COUNTY OF _____)

Before me, a Notary Public, in and for said County and State, personally appeared Michael D. Zieles, who, being first duly sworn upon his oath, acknowledged the execution of the foregoing "Assignment" as his voluntary act and deed.

WITNESS my hand and Notarial Seal this _____ day of _____, 2004.

Notary Public

Printed: _____

Resident of _____ County

My Commission Expires:

EXHIBIT C

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|-----------------|----------------------|-------------------|-------------------|
| Tracking number | 660483332404 | Reference | 8222-53 |
| Signed for by | J.ROGERS | Delivery location | WESTPORT, IN |
| Ship date | Jul 15, 2004 | Delivered to | Residence |
| Delivery date | Jul 16, 2004 9:18 AM | Service type | Priority Envelope |
| | | Weight | 1.0 lbs. |

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| | 10:29 PM Left origin | INDIANAPOLIS, IN | |
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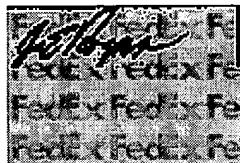
08/25/2004

Dear Customer:

Here is the proof of delivery for the shipment with tracking number **660483332404**. Our records reflect the following information.

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Signed for by: J.ROGERS



Delivery Date: Jul 16, 2004 09:18

Shipping Information:

Tracking number: 660483332404

Ship Date: Jul 15, 2004

Weight: 1.0 lbs.

Recipient:

JOHN E. ROGERS
2605 WEST COUNTY ROAD 1000 NORTH
WESTPORT, IN 47283
US

Shipper:

Jackie Pike
WOODARD EMHARDT MORIARTY ETAL
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204
US

Reference:

8222-53

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